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SELF-GOVERNMENT IN LOUISIANA.

SPEECH

OF

HON. F. T. FRELINGHUYSEN,
OF NEW JERSEY,

IN THE

SENATE OF THE UNITED STATES,

JANUARY 15, 1875.



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The Senate having under consideration the resolution submitted by Mr. SCHURZ on the 8th of January, directing the Committee on the Judiciary to inquire what legislation is necessary to secure to the people of the State of Louisiana their rights of self-government under the Constitution—

Mr. FRELINGHUYSEN said:

Mr. PRESIDENT: I feel constrained to make a few calm remarks in this debate for the purpose of correcting a delusive impression which I fear is being made upon the people of the South, and for the purpose of counteracting, to the extent of my feeble ability, an injury which I believe is being done by positions here taken to the best interests of the country.

The allegation is made openly and repeatedly in the Congress of the nation, in the assemblies of the people, and in the public journals, that there has been inaugurated, has long continued, and now exists a system of outrage, murder, and assassination at the South, the deliberate design and purpose of which is to deprive American citizens of their constitutional rights. It is not for me to say that this allegation is true; that would be but the opinion of an individual; but I will very briefly call attention to some of the considerations which seem to prove the charge.

While it is true that "common rumor," to use a rough maxim, "is a common liar," yet the calm and deliberate conclusions of an impartial community, gathering their information from a hundred different sources, are entitled to much of the consideration that belongs to truth; and I feel that I may say that a large part of the community at the North believe that allegation to be true, and that the plain people of the country, who love their country better than any party, have painful apprehensions that it is true.

The fact that a large number of those against whom this system of terrorism is alleged to be directed omit to exercise the cherished right of voting, are discontented and seeking to remove from their homes, is further evidence of the truth of the charge.

The fact that some of the white people of the South who recently manifested their dissatisfaction with this Government by open revolt have since the close of the war displayed their hostility toward those who favored and sustained the Government by the organization of a secret order known as the Ku-Klux, who are proven by thirteen volumes of testimony to have been guilty of the most diabolical crimes, and that now another order is founded on the antagonism of race, as the name of "White League" alone sufficiently shows, is some evidence that the charge is true. We have the evidence of there having been several slaughters at the South, resulting in death to many of those toward whom this terrorism is directed,

as that at Red River, that at New Orleans, that at Vicksburgh, and at other localities.

Then, too, we have the testimony of living witnesses officially before this tribunal, under the sanction of oath averring before us that the charge is true. The Senator from Louisiana [Mr. WEST] reluctantly and under a sense of painful duty, told us the charge was true. The Senator from Texas, [Mr. FLANAGAN,] who has lived nearly seventy years with the people of the South, who has no ends to answer excepting fidelity to the country, tells us that the one-half has not been told. His colleague from the same State [Mr. HAMILTON] does not contradict him. The Senators from Arkansas and from Mississippi are here, and they have not yet risen to say that the allegation is false.

Then, sir, we have the testimony of General Sheridan, that brave and patriotic man, the hero of many a battle-field, whose name and memory will be cherished by the American people long after most of us are forgotten. He tells us, with all the directness and frankness of a soldier, that the atmosphere which his high duty compels him to breathe is filled with violence.

Sir, I have in my possession a compilation of hundreds of instances of violence, gathered from the public press, giving place and date and name; but I will not refer to them, because their use would be met with the assertion that they were mere newspaper stories; but which while uncontradicted cannot fail to add to the conviction that a system of violence does prevail.

And last of all, under the duty imposed by the Constitution upon the President to communicate to Congress from time to time information of the state of the Union, we have the deliberate statement of the Chief Magistrate that this allegation of outrage and wrong is true. Now, sir, it will not do to attempt to "whistle down the wind" a charge sustained by such proof.

This charge that a system of violence has existed and does exist should have been met by every Senator, without distinction of party, with an impartial and firm determination to know the truth, rather than by a cold and vacant denial. It should have been met by a united effort to exhaust the whole power of the nation to bring to speedy punishment these violators of law, rather than by justification, extenuation, and derision. One Senator tells us that the allegation is an insult to the people of his section; and I suppose that is to stop action when law is trampled under foot. He tells us that "only in rare and isolated instances" does violence occur.

Another Senator says:

I do not vindicate murder; I do not vindicate violation of law; but I hope that the people of all countries, including Louisiana, will never tamely submit like cravens and cowards to be oppressed without a show of resistance.

If, sir, there is any more craven and cowardly way of resisting even oppression than by assassination and murder, I have yet to learn it.

Another Senator attempts to hold the charge up to derision, and tells us "the outrage business is played out; that the people have heard that song until it fails to be music to their ears; that the republican party have an outrage-mill; and that these stories are part of their political machinery."

When such astounding statements of systematic violation of law as are presented here are thus met by Senators, no one should wonder at the saturnalia of crime. If the Senate and House with one voice and one heart should denounce these atrocities, and, casting party to the winds, let the world know that we were determined law

should reign supreme, there would be order at the South in sixty days.

If this charge of violation of law be true and such things be tolerated, we see before us the ruin of this Republic. This system of organized crime may accomplish the partisan purpose to which it is directed; but it is yet true, as has been well said, that laws that are enrolled in the chancery of heaven cannot be repealed by any popular vote, and He who enacted them cannot be reached by any bribe or moved by any terror. In the violation of that simple law of right and wrong which is written in letters of light on the shrine of creation, and on all our hearts, you may read the downfall of the generations of nations that have figured upon earth. The crimes of the Roman republic were lost in the greater crimes of the empire, and both were ruined. The revolutions of France, the vibrations between anarchy and tyranny in the Greek republics, only prove that no matter what be the form, government cannot be maintained but by maintaining virtue.

Our fathers, when they laid the foundations of this nation, made a compromise with vice, and it well-nigh cost the life of the Republic. Too patriotic to inscribe upon the pages of their Constitution that word which is the sum of all iniquities; too logical, when establishing a government based on the equality of man, to recognize different grades of citizenship or civil privileges, they yet did tolerate slavery; and the result has been that for every tear-drop that in response to the lash of the task-master has trickled down the cheek of man, there has been demanded a drop of the heart's blood of the sons of those who thus struck hands with a great national wrong.

We should learn wisdom by experience. We have come to a national epoch. The rebellion is over; there has been enough of suffering and of torture; the storm is passed, but the current still runs strong. There are animosities, antagonisms, hostility; and the question for us is whether, come weal or woe, we will stand by the right, or whether we will suffer the Republic to drift away to that destruction which has met every nation that did not withstand the tide of vice.

The people of our country have inscribed on their Constitution three principles: universal freedom, universal suffrage, universal citizenship. There they are. They are the trophies of the war. To purchase them three hundred thousand young men, as good as any of us, lie to-day cold and stark in death. Time has brought its alleviations, but to-day thousands of hearts are shrouded in sorrow. We Senators at yonder rostrum have assumed the solemn obligation to do all we can to maintain and enforce in letter and in spirit those three great amendments of the Constitution. Has it been done? Is it being done? Is there a citizen of the North who would to-day be willing to live under such citizenship as the colored people of the South are subjected to? These are questions each Senator of right determines for himself. But if these amendments did not exist, how plain is the path of policy and of duty. At the Revolution the population of the country was three million; it is now forty million. The number of the colored people to-day is four millions eight hundred thousand. I do not say that in a like period to that which has elapsed since the Revolution the colored population will amount to forty million; but I do say that they will amount to twenty million; and the question is, as a matter of mere public policy, aside from all constitutional amendments, whether they should be reasonably elevated, educated, and made a thrifty and industrious population, a blessing

to themselves and to society, or whether they shall be an ignorant and degraded race, rising occasionally in revolt as the lingering sparks of manhood are fired by some new wrong—whether they shall rise to the dignity of creatures of God or become a mass of moral degradation pestilential to society.

Let us remember that the object of government is not to minister to the pride or to feed the luxury of men, but its true end is to elevate, refine and humanize all who are brought under its influence. If we did not intend to give these people the rights of citizens, we should have left them slaves. If we did not intend to give them the protection of the law, we should have left them that protection which the lord gives his vassals. Look at their history. They were brought here by the cupidity of our fathers. They have been docile and obedient to law; they have not been pensioners upon our bounty. They have cleared our forests, reclaimed our morasses, and every year they bring \$150,000,000 worth of cotton—the equivalent of gold to the wealth of the nation. Without return they have supported in affluence a large portion of the people of this country. They have educated their children. They have helped to fight our battles. They are not indebted to us. And, sir, besides, it is the height of folly for a people to quarrel with its labor, for that is its wealth.

But all these plain and clear obligations of the Constitution, of duty, and of policy are met by one plea, which I have heard iterated and reiterated when each of the three amendments and when any law for its enforcement has been before the Senate, until the plea has become vapid and nauseating. That plea is, "We do not want social equality." That plea is a fraud or a delusion. There is not, there never has been, and never can be any such thing as social equality. The richest and most influential man in society cannot take a cup of tea with the poorest and humblest old lady in the country without her consent. Social relations depend upon reciprocal consent; they depend upon taste; they depend upon the affinities of the mind; they depend upon the arbitrary will of individuals, which no statute can control. Look at it, sir. The most uncouth, illiterate, degraded, and uninviting white men in the land, if not felons, have now and ever have had full and equal civil and political rights. Has this fact compelled anybody to associate with that class? Has it created social equality? No: on the contrary, in this country where we do not recognize any grades of citizenship, society has risen to a refinement, a culture, and an elevation that it has not attained in those lands where grades of citizenship are recognized. That plea is either a fraud or a delusion.

The people of the South had better not be deceived; for the people of this country intend that sooner or later there shall be equal citizenship here. They intend that the plea, "I am an American citizen," shall be respected in every nook and corner of the country just as much as it is upon the deck of a man-of-war. Do not be carried away by any ephemeral excitement; the rights of citizenship have cost too much ever to be surrendered. If this system of violence goes on at the South, you will see no political divisions at the North. Democrats are just as good men as republicans, and when they come to understand the situation will be as determined as republicans to have the law triumphant in this country. There are associations and traditions connected with the history of the three great amendments which appeal to the hearts of all our people. They will remember that the same blanket covered a lamented son and the colored soldier on the morass; that they shared their waning canteens together; that they bore for each other the last message of affection and even bivouacked

in death together; and our people will say: "We have submitted that those who have a chartered right to equal citizenship shall not have the full advantage of that public education they are taxed to support; we have submitted that when they travel they shall be thrust into the bunk or cattle car; we have submitted that they shall eat their rations at the curb-stone instead of the common inn; we have submitted that they shall be buried upon the roadside and not be permitted burial in that public grave-yard which they are taxed to maintain; but we will not submit that their lives be tortured by apprehension and terminated by violence." That will be the sentiment of the democrats and republicans at the North.

Be not deceived. In 1860 there were democratic leaders who sympathized with the then approaching rebellion. They told the South that there would be a divided North, that military forces would not be permitted to pass through certain States, and that there should be no coercion; but as soon as the old flag was fired upon, the rank and file of the democrats cast to the wind the pledges of their leaders, and manfully fought, and died too, for their country. If the people of the South gets the impression from anything said here that there will be at the North any sympathy with or toleration of the system of violence that seems to prevail at the South, they will be deceived.

A distinguished Senator said the other day that we should conciliate the South. Let me say to the Senators from Southern States that I remember that we have a common ancestry and measurably a common history, and I hope a common destiny. That I remember that they made a great mistake and have been disappointed; and while I am glad that they were, my American manhood forbids that I should ever exult over their disappointment. But, sir, let me say that I am opposed to any system of so-called "conciliation" because that is not to their advantage or the interest of the country. What we all want, and must have, is a government of law and equal citizenship everywhere. Conciliation! No, Mr. President; that administration of affairs which depends upon the will of the governed, and not on the will of the governing power, is not government. We want no jelly-fish system, that rests on conciliation; we want a government of bone and vertebrae, which does not "bear the sword in vain," which is a "terror to evil-doers." Let it be the same in every section.

It has been eloquently and truly said that the hand which breaks down our laws is the hand of death unbaring the gates of pandemonium and letting loose upon the land the crimes and miseries of hell; and if the Most High should stand aloof and not cast a single ingredient into our cup of trembling, it would yet be one of insufferable woe; but He will not stand aloof.

Mr. President, the subject of the prevalence of crime and lawlessness at the South, and especially in Louisiana, and the supreme necessity of averting anarchy, constitutes the atmosphere through which alone you can correctly see and judge of those transactions of the 4th of January, which have excited the country. Sending Federal soldiers at all to a State which was peaceful, which was in a normal condition, would find no defenders on this side of the Chamber. Having the soldiery reinstate one government for another, as was done on the 14th of September, and which has met approval by the country, has only been approved because of the abnormal condition of society at New Orleans; and those utterances, here and elsewhere, which characterize the conduct of the General Government as if the theater of action had been in a peaceful State, where the law was supreme, where every citizen was a conservator of the peace, are a simple per-

version of the true situation and calculated to weaken a government which every citizen of every party is bound to strengthen.

This much I wished to say: that those who wish to look at the transactions of the 4th of January as they really were may take a proper stand-point to view them.

I think the reflecting people of this country must be painfully impressed with the injustice that has been done to the President and to General Sheridan in this debate. The President, it is clear, has only been influenced by the most humane and patriotic motives. He called upon Congress for direction, and Congress in effect told him to recognize and to sustain the Kellogg government. He told us that he had recognized that government, and that he would continue to do so unless we directed to the contrary; and we were silent. He has, as a faithful man, done the best he could; and it seems to me that it is ungenerous and unjust to seek to excite toward him public prejudice or odium. Time and again, when massacre seemed to be impending, he has averted it.

As the 4th of January approached the whole country was filled with anxiety. The telegraph constantly informed us of the condition of affairs there; and when the day was passed without violence the nation was relieved. It was that modest, retiring, and indomitably brave man who has so often and so signally averted impending peril to his country who was the instrument to turn aside that threatened sorrow and disgrace. And to classify him with Napoleons, and Cæsars, and Cromwells, and oriental despots; to say to the country that he may yet fill the corridors of the Senate with troops to control legislation; to suggest that it may be necessary to refuse appropriations to the Army or disband it because he, of all men in this world, is unfit to be its commander, is ungenerous and unjust.

Mr. President, before considering the proceeding of the 4th of January, let me say a word as to the powers of this nation known as the United States of America. The democratic party up to 1860 had so cultivated and distorted beyond proportion the doctrine of State rights that their theories culminated in James Buchanan's sending, on the 4th of December of that year, a message to Congress, stating that after serious reflection he had arrived at the conclusion that Congress had no power to coerce a State which attempted to withdraw from the Union. The erroneous theories culminated in that message, but the baneful effects of that doctrine can only be arrived at by estimating the blood and treasure the doctrine of State rights has cost the country. From the State-rights stand-point it is difficult to discover what the military can lawfully do. No, Mr. President, this is a nation, and not a general agency of thirty-seven independent sovereign States. By the Constitution the States are denuded of many of the incidents of sovereign power. They can of themselves make no agreement or treaty with other States. They can have no foreign relations. They can have no army or navy, and even the militia, when in service, is under the control of the Federal Government. The States, by the surrender of these powers, would be unable to maintain their organization against insurrection from within and invasion from without. The great common power to which the States look for protection from domestic violence and foreign invasion is the United States.

All the power which the United States possesses in this regard is set forth in the fourth section of the fourth article of the Constitution. The provision is brief, but contains vast powers. The United States Government guarantees three things to the several States, in

consideration of their having surrendered the incidents of sovereignty. It guarantees to them government, security, order. It guarantees to the States government. This the United States is to see that each State has, whether the Legislature or the governor of the State ask the interference or not.

Every State is interested that there should be government in each. The relations of the States are so intimate that anarchy in one would be to the injury of all; and besides, as the citizens of the several States are citizens of the United States, they have a right that anarchy shall not exist in any. Then, too, the United States has a system of laws and government extending into each State, and its laws and government can not be enforced in the State that is in a condition of anarchy, and the obligation is on the United States to see to it that anarchy does not exist anywhere; and this whether the governor or the Legislature make a call or not.

The United States, whether the Legislature or governor ask it or not, whether they like it or not, is also to protect the several States from invasion. All are interested that the State should not be devastated by a foreign foe. All the citizens of the United States are interested in this, because as citizens of the United States they have rights, property, and privileges in the State to be protected. And the United States of its own motion is to afford this security.

The United States is to do one thing more, but this only on the application of the Legislature or governor. The State having surrendered its rights to an army or navy, the United States is to render its aid in protecting from domestic violence.

Now, who is the United States? Is it the executive, or is it the judiciary, or is it Congress? It is all combined, and it is each of these three branches acting separately within its constitutional province. The Government which the United States guarantees is to be republican in form. Should a State pass a law tending to create an aristocracy, as that the judgeship should be hereditary, it would be the duty of the judiciary to declare that law void; and in that case, fulfilling this guarantee, the judiciary is "the United States." If all government in a State should be broken down, as after the rebellion, so that it became necessary to organize new governments, then the legislative power acts, and Congress is "the United States." If there is domestic violence in a State and the President is called upon by the Legislature or the governor to suppress it, he fulfills the guarantee, and he, acting in his province, is "the United States."

Mr. President, a republican government is not only one in which the representatives elected by the people govern, but is one in which the succession or continuance of organized authority shall be in accordance with the law of the land. That is quite as essential to a republican government as that the governing representatives shall be elected by the people. If by fraud or force, or both combined, this succession or continuance of organized authority according to law is interfered with, and the sovereign power is seized by intruders, that is a subversion of government and so is a subversion of a republican form of government, and the United States by that branch of the Government to which the duty appropriately belongs may interfere.

The highest and most atrocious breach of the peace, the most disastrous domestic violence, is that which prevents the lawful succession or continuance of organized authority.

It is worse than murder, rapine, or arson, because it strikes at the heart of government. If the usurper of power at the imminent mo-

ment the transfer or succession of government is being made can, by stratagem, by a *coup d'état*, wrest it from those designated by law what folly is it to have armies to protect lawful government! For why should usurpers ever peril their lives to get that power which they can get by seizing, stealing, thieving? Why clothe sovereign power with a coat of mail, if you leave a joint in the harness open where the spear of the usurper may reach the very heart of government?

Let the United States Senate be careful that in its commendable hostility to the interference of the military with the civil authority it does not give countenance to the much more dangerous enemies to civil authority. The usurper of civil authority, whether by force or fraud, is entitled to no sympathy whether their treason be arrested by civil or by military agency; and the State that is delivered from the usurpation has suffered no wrong.

Unless we are careful, this nation with its thirty-seven State Legislatures may by our defense of those who through stratagem attempt to seize the government of Louisiana do greater injury to civil liberty than could ever in this land be done by the military power.

Mr. President, the military power of this country in the hands of the people is but that of a mouse under the paw of a lion. In countries where the people have little power, and where they are not the rulers, and where there are large standing armies, there may be danger from military power; and is it not true that the perils and dangers to civil liberty which there exist have been adroitly and skillfully transferred by some debaters to this country. It seems to me that I can hear the brave man of the West laugh at the idea of twenty-five thousand soldiers a few months from the people imperiling the liberties of their country! There is much of affectation in this pretense of danger to liberty from our Army. I think the trumpet has given in this case an uncertain sound.

Now, Mr. President, I have a few words to say in reference to the 4th of January. Remember the state of partisan feeling at New Orleans, as manifested by the murders and assassinations that had occurred. Remember that within ninety days an armed band of insurgents had overturned the government of the State of Louisiana; that they had shot down the police and trampled under foot the civil authorities; that they had murdered in the streets fifty citizens; that the governor himself only saved his life by fleeing to the custom-house. Remember that this insurrection was held in abeyance, but had not been exterminated; that it was like a subterranean fire that had been stamped out at one point, but was ready to burst out at another at any minute.

As that day approached, these insurgents had a definite purpose and definite plan for accomplishing their purpose.

Their purpose was at the imminent moment, when the sovereign power was being transmitted from one set of representatives to another, to seize the reins of government by stratagem and by force, and thus overturn a government which had been recognized by the courts of the State and by the Federal courts, by the Congress of the United States, by the President, which had existed for two years, and which this same party had within ninety days successfully seized, but were not suffered by the Federal Government acting through the military power to hold. That this was their purpose is manifest; first, by what occurred on the 4th of January, of which hereafter; second, by what McMillan, who was elected to the United States Senate by the McEnergy legislature, told Mr. Foster, one of the committee which

went to New Orleans. While sitting in the legislative hall, McMillen told him that their plan was that the newly-elected senators were to join themselves with those who claimed to be elected to the senate in 1872, and thus they would have the senate. They were then to obtain the house of representatives in the manner we shall see; and that then the two houses would recognize McEnery as governor. Thus a revolution formerly attempted by force and defeated with the approbation of the whole country was to be effected by stratagem.

I am much mistaken if the Senator from Maryland [Mr. HAMILTON] the other day did not say in the Senate that if that Legislature had not been driven out, Kellogg would not have been governor for an hour. The purpose was by a *coup d'etat* to effect that which they had failed to effect by arms and by bloodshed, and some of the people are thrown into a convulsion of excitement when this purpose fails. If the revolutionary stratagem had succeeded and been tolerated, it would have been a lamentable precedent for anarchy in a country where there are thirty-seven such legislative bodies, where power is annually succeeding from one set of representatives to another.

Now, how were the insurgents to get possession of the Legislature? The senate was to be easily managed. The democratic senators did not join their associates, but staid out of the senate to join the democratic members elected in 1872, when the house should have been secured.

How was the control of the house to be obtained? The plan of the insurgents and the outrageous violation of law are sufficiently manifested by a statement of the law and by what they did. There were two ways, and only two, by which any person could become a member of the Legislature—by his being named on the roll prepared by the clerk of the former house or by his being declared to be a member of the Legislature after it had been organized. Those are the only two possible ways in which any one can be a member of the Legislature of Louisiana. The statute that regulates this subject is the twenty-fourth section of the act of November 20, 1872, which declares in these words—

That it shall be the duty of the secretary of state to transmit to the clerk of the house of representatives and the secretary of the senate of the last General Assembly a list of the names of such persons as, according to the returns, shall have been elected to either branch of the General Assembly; and it shall be the duty of said clerk and secretary to place the names of the representatives and senators elect, so furnished, upon the roll of the house and of the senate respectively; and those representatives and senators whose names are so placed by the clerk and secretary respectively, in accordance with the foregoing provision, and none other, shall be competent to organize the house of representatives or senate.

Nothing in this act shall be construed to conflict with article 34 of the constitution.

Let us see if there is anything in the act interfering with the thirty-fourth article of the constitution. The thirty-fourth article of the constitution provides that—

Each house of the General Assembly shall judge of the qualification, election, and returns of its members; but a contested election shall be determined in such manner as may be prescribed by law.

The act of 1872, you see, does not conflict with the constitution, but affirms it. The constitution says that none but the house shall determine the qualifications and elections of members. There was no house when this action was taken; there had been no organization. But the constitution further provides that the manner in which a contest shall be conducted shall be prescribed by law; and the law of 1872 does provide the manner, and expressly says that none, no matter whether in fact elected or not, unless their names appear upon

the roll which is made out by the returning board and sent to the secretary of state and given by him to the clerk, shall take part in the organization of the house.

There were one hundred and two members on the roll who answered to their names; fifty-two, a majority of them, were republicans; fifty were democrats. By no possibility could that house under a party vote have had other than a republican organization. That was one of the difficulties the conspirators had to contend with.

There was another difficulty. The law provided that the clerk of the previous house should hold over, in the language of the act, "to facilitate the organization of the new house," and should hold over, as the act says, "until a clerk shall have been elected and qualified to succeed him." The former clerk, then, was the representative head of that assemblage of persons returned to the Legislature. It was he who should call the roll; it was he who was to preside until the house was organized by the election of a speaker. The language of the act is this:

That, for the purpose of facilitating the organization of their respective bodies, the secretary of the senate and the chief clerk of the house of representatives shall hold over and continue in office from one term of the General Assembly to another until their successors are duly elected and qualified.

These laws were set at defiance.

Mr. MORTON. Will the Senator allow me to ask him a question?

Mr. FRELINGHUYSEN. Certainly.

Mr. MORTON. I desire the Senator to state whether under that law there was any authority for the election of what is called a temporary chairman or speaker to organize the house?

Mr. FRELINGHUYSEN. Certainly there was not; because there was an express provision of law that the clerk of the former house should hold over until his successor was appointed, for the purpose, in the language of the act, of "facilitating the organization of the house."

Mr. MORTON. I will ask the Senator still further if he understands the operation of that law and the practice of legislative bodies to be that the clerk himself is to act as the presiding officer until the organization is complete.

Mr. FRELINGHUYSEN. I certainly understand that the clerk is to preside until a speaker was elected.

Mr. President, these laws were set at defiance. The clerk was in his chair performing the duty of organization when a member usurped his duty. Mr. Billien nominated Mr. Wiltz as temporary chairman. Billien put the motion, which he had no more right to do than I had. He declared the motion carried and Wiltz elected. You, sir, might with equal authority have pronounced that judgment. There never was a grosser usurpation. Wiltz was not elected chairman of that house for these three reasons: First, because Billien had no right to put the motion, or decide the vote; second, because he refused to call the yeas and nays. Mr. Foster told me that the demand for the yeas and nays was made. The constitution, by the thirty-sixth article, provides that "each house of the General Assembly shall keep and publish weekly a journal of its proceedings, and the yeas and nays of the members on any question, at the desire of two of them, shall be entered on the journal." A clerk was to hold over to keep the journal. There is the constitutional provision. There was a demand for the yeas and nays and there was a refusal. Wiltz was not elected the chairman of that house for the further reason that there were fifty-two men there opposed to him, as we have the right to infer, and not more than fifty in favor of him.

Mr. BOGY. I will ask the Senator if Mr. Billien was a member of the Legislature, that is, one of the persons whose names were on the list furnished by the former clerk?

Mr. FRELINGHUYSEN. I understand he was one of those.

Mr. BOGY. If he was a member, it was according to the usage.

Mr. FRELINGHUYSEN. If he was elected a member of the Legislature, he was not elected speaker, and he undertook to perform the province of speaker by putting a motion and declaring that motion carried, and that too when another, provided by law, was presiding and when the motion was not carried.

Mr. BOGY. Did the law to which the Senator alludes authorize the clerk to put motions to the vote of that body? The law, if I understand it, only made it the duty of the clerk to call the roll of the members. It is the usage in the Western States—I know it is in my State—for a member whose name has been called to nominate a person, and he puts the question to the members whose names have been recognized as members, and it is not put by the clerk.

Mr. FRELINGHUYSEN. If the Senator from Missouri had done me the honor to listen to what I said, he would have understood my view.

Mr. BOGY. I will state to the Senator that I have listened to his speech with great attention and great pleasure, because I think he is making a very able speech indeed.

Mr. FRELINGHUYSEN. I am much obliged to the Senator.

The law expressly provided that the clerk should be continued over for the very purpose of facilitating the organization; that he should remain clerk until his successor was elected; that is, remain clerk until a speaker had been elected and they proceed to the election of a clerk. It would be a strange arrangement for the organization of legislative bodies if it was the province of one hundred and two men whose names were on the roll each to put a motion, each one to say "It is carried," and possibly have one hundred and two different results. That would be an organization into chaos!

Mr. MORTON. Will the Senator allow me to call his attention to the fact that at the time that man made the motion to elect Wiltz as temporary chairman none of them had been sworn in by the clerk?

Mr. FRELINGHUYSEN. Not one. None of them were sworn in before the republicans left in any other manner than according to Dr. Franklin's plan of asking a blessing upon the whole barrel of pork. They were not sworn in, as I understand, otherwise than by Wiltz declaring them to be sworn.

But, Mr. President, let us proceed. What use is there in raising a question whether Billien had a right to put a motion or not, when the constitution provided that they should call the yeas and nays when they were demanded, and when they were refused and refused just because there was a majority against the motion?

Immediately on Wiltz's taking the chair, Mr. Trezevan was declared elected clerk. There was yet no permanent organization of the house. Then Mr. Billien again moved that five persons who claimed to be elected, but whose names had not been placed upon the roll, should be sworn in as members; and this by the usurping speaker was declared carried. Another demand for the yeas and nays was made, and it was refused. They were not members of that house because they were not on the roll, and there was no house organized which could admit them. What a farce to say that five members who claimed contested seats could be admitted when there was no house organized, no committee appointed, nobody to look at the testimony,

to look at the credentials, and when the law of the State expressly said that they should not be admitted until after there was an organization. What a farce to pretend that these men were members of that house when the person who put the motion expressly refused to call the yeas and nays, and when we have a right to infer that there were fifty-two against their admission and only fifty in favor of it.

Then, sir, we have this case: Here are five persons assuming without authority to exercise the sovereign power of the State of Louisiana; fifty democrats join with them, making fifty-five, which changes the political complexion of the house, there thus being fifty-five democrats and fifty-two republicans, and thus by this legerdemain those men who had been defeated in their revolutionary project, with the approval of the country, by the Army of the United States, on the 14th of September, have subverted that government and placed themselves in the seat of power. The case is like this: Say there were seventy-one Senators of the United States and three vacancies; of the seventy-one, thirty-six were democrats and thirty-five were republican, and suppose that the republican members should come into this Chamber with three men and should apply to the Vice-President to put a motion that those three men be admitted as Senators and sworn, and he refusing some republican rises in his seat, puts the motion, and declares it carried. If some Senator objects and demands the yeas and nays, the demand is refused. The motion is declared carried and these three men are admitted. Now, the republicans would have the majority, they having thirty-eight members and the democrats but thirty-six. That is the case before us. It is revolution. Suppose, to make the case nearer parallel, that the same republican party within ninety days had by open violence by an army of ten thousand men in the streets of Washington attempted to subvert this Government; that they had made a democratic President flee to the house of some friend to protect his life; that they had stricken down fifty men in the streets; would this not make the atrocity more apparent, if not more aggravated? That is this case.

Mr. President, the grave allegation which has fired the American heart that the Federal soldiery have driven five members of the Legislature of Louisiana from the legislative hall wants the essential ingredient of fact and truth. They were not members of the Legislature. They were only members of a conspiracy to subvert the government. Are they to remain there? If they are, it is a successful rebellion against lawful authority. They must be removed; but how? Had they shot five republicans in their seats, then it would have been proper, I suppose all will admit, to have removed the five intruders by force.

But we are told they used no violence. Ah! Mr. President, if I drop the arsenic into the cup of my associate I use no particular violence, but the result is death. So these men used the violence necessary to accomplish the conspiracy intended to be to that government, ay, and to many of the people, death. And such would have been the result had their purpose not been averted. They committed violence upon the rights of the people of Louisiana. It was their right that the continuing clerk should facilitate the organization of the house until his successor was elected. It was their right that a majority and not a minority should speak for the body. It was their right that every decision should only be made by a call of the yeas and nays when they were demanded. It was their right that none but those on the roll should take part in the organization. They used violence enough.

But how are they to be removed? Shall the sergeant-at-arms remove them? He and his associates seem to have been, by previous arrangement, parties to the lawless proceeding. And, besides, there is no sergeant-at-arms to an assemblage not organized.

As those who sought to subvert the government had invoked the military power to sustain themselves, shall Governor Kellogg seek the aid of that power?

I am opposed to the interference of the military power with civil authority in time of peace. But those who were removed were not clothed with civil authority; they were intruders; they were attempting themselves unlawfully to wrest civil authority from those to whom the law gave it; and it was not a time of peace. The fires of insurrection which time and again had broken forth were only slumbering; and if their conspiracy had been successful, it would no doubt again have brought devastation and death.

I am opposed to any intervention of the military power which might even be perverted into a precedent in other times and under other circumstances.

The question is whether Governor Kellogg, following the example of his adversaries, was authorized to seek the aid of the military, and that is all the question before us or before the people. In answer to that question I will ask another, and end my remarks on this subject. Let me ask who is there here, had he been chief magistrate of Louisiana intrusted with the solemn duty of preserving the government of that State, of preserving its peace, of preserving the lives of its citizens—who, seeing now that that government has been preserved, that peace has been preserved, that the lives of the citizens have been protected—who is there who would to-day take the responsibility of undoing, were it possible, what was done at that critical moment? I would not take that responsibility.

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